Office Supreme Court, U. S.
FILED
OCT 8 1926
WM. R. STANSBURY
CLERK

IN THE

Supreme Court of the United States

October Term, 1925

No. 27, ORIGINAL 10

STATE OF MICHIGAN AND STATE OF NEW YORK,
Complainants,

against

STATE OF ILLINOIS AND SANITARY DISTRICT, OF CHICAGO,
Defendants.

MEMORANDUM IN SUPPORT OF MOTION TO JOIN NEW YORK AS PARTY COMPLAINANT AND AMEND BILL OF COMPLAINT.

ANDREW B. DOUGHERTY,
Attorney-General of the State of Michigan,

ALBERT OTTINGER,
Attorney-General of the State of New York,

CLARENCE S. FERRIS,
Deputy Attorney-General,
Solicitors for Complainants.

In the Supreme Court of the United States

OCTOBER TERM, 1925.

No. 27, ORIGINAL.

STATE OF MICHIGAN AND STATE OF NEW YORK,
Complainants,

v.

STATE OF ILLINOIS AND SANITARY DISTRICT OF CHICAGO,
Defendants.

MEMORANDUM IN SUPPORT OF MOTION TO JOIN NEW YORK AS PARTY COMPLAINANT AND AMEND BILL OF COMPLAINT.

In support of the above motion, presented to the Court on the 4th instant by the States of Michigan and New York, said States submit the following:

1. The only new matter added by way of amendment is paragraph IV on pages 4 and 5, and the words "and by the municipal and port authorities of the respective ports and harbors" in lines 8 and 9 page 23. The only other changes in the complaint are those made necessary by reason of there being two complainants instead of one.

2. The State of New York is interested equally with the States of Michigan, Ohio, Pennsylvania, Wisconsin, Indiana and Minnesota in the question of navigation and the effect on navigation caused by the withdrawal of water at

Chicago. The port of Buffalo in the State of New York is the second in importance on the Great Lakes. The annual amount of tonnage entering this port is upwards of 20,000,000 tons.

3. A diversion of 10,000 cubic feet of water per second at Chicago obviously means so much less water passes downstream through the Great Lakes and through the Niagara and St. Lawrence rivers. This amount of water is capable of developing 400,000 horsepower of hydro-electric power on the Niagara and St. Lawrence rivers. The State of New York, as a downstream state and riparian owner, claims that it has the right to the full flow of the stream and the right to use the surplus water, over and above the amount required for navigation, for the development of hydro-electric power, and that such right is a property right of the State of New York and its citizens.

4. The defendants, State of Illinois and Sanitary District of Chicago, have brought into this case the question of power development by pleading by way of defense the Act of June 17, 1919, in force July 1, 1919, of the State of Illinois, at the bottom of page 65 and on following pages of their joint and several answer in this case. Furthermore for several years last passed at hearings before the Rivers and Harbors Committee of the House of Representatives and various committees in the Senate these defendants have stated as one of the reasons why the Chicago diversion should be permitted that a large amount of power can be developed therefrom on the Desplaines and Illinois rivers.

5. The importance of this case and the judgment and decree to be rendered herein to all of the Great Lakes States would seem to make it not only appropriate but necessary that New York be joined as a party.

6. We are assured by counsel for the State of Wisconsin and other States in the suit now pending between those states as complainants and the State of Illinois and Sani-

tary District of Chicago as defendants that they not only consent but desire that the State of New York shall join in this litigation.

7. There will be no delay in the trial of this litigation by reason of New York becoming a party thereto. The State of New York is prepared to proceed with the trial at any time, and the States of Michigan and New York will participate in the trial of the Wisconsin case before Hon. Charles E. Hughes, Special Master, with the purpose of trying both cases together.

The complainants respectfully request the Court to grant the motion allowing the State of New York to join as a party complainant and to amend the complaint as proposed.

Dated: October 4, 1926.

ANDREW B. DOUGHERTY,
Attorney General of the State of Michigan,

ALBERT OTTINGER,
Attorney General of the State of New York,

CLARENCE S. FERRIS,
Deputy Attorney General,
Solicitors for Complainants.